

**REISSUE APPLICATION DECLARATION AND POWER OF ATTORNEY
(BY INVENTOR(S) OR ASSIGNEE)**

(complete A or B)

A. ☒ DECLARATION BY THE INVENTOR(S)

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name, I believe I am the original, first ~~and sole inventor (if only one name is listed below)~~ or an original, first and joint inventor ~~(if plural names are listed below)~~ of the subject matter that is described and claimed in letters patent number 5,911,353, granted on June 15, 1999, and for which invention I solicit a reissue patent on the invention entitled DISPOSABLE LOADING UNIT FOR SURGICAL STAPLER

the specification of which

☒ is attached hereto.

☐ was filed on _____, as reissue application number / and was amended on _____ (if applicable).

☐ I hereby declare that there is no assignee for this application.

NOTE: "Where no assignee exists, applicant should affirmatively state that fact. If the file record is silent as to the existence of an assignee, it will be presumed that no assignee exists." M.P.E.P., 6th ed., rev. 1, § 1410.01.

B. ☐ DECLARATION BY ASSIGNEE

NOTE: The assignee of the entire interest may make the declaration, if the reissue application does not seek to enlarge the scope of the claims of the original patent. 37 C.F.R. § 1.172.

_____, _____
(type or print name of declarant) Title
of _____,
Name of company or legal entity on whose behalf declarant is authorized to sign
declare that I am a citizen of _____ and resident of _____,
_____, that the entire title to letters patent number _____,
for _____,
granted on _____, 19____ to _____
Inventor(s)
is vested in _____
Name of company or legal entity

that I believe said named inventor(s) to be an original, first and sole inventor (if only one name is listed) or an original, first and part inventor (if plural names are listed) of the subject matter that is described and claimed in the aforesaid letters patent and in the foregoing specification and for which invention I solicit a reissue patent.

ACKNOWLEDGEMENT OF REVIEW OF PAPERS AND DUTY OF CANDOR

(37 C.F.R. § 1.175)

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information that is material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56.

- ☐ In compliance with this duty, there is attached an information disclosure statement in accordance with 37 C.F.R. § 1.98.

PRIORITY CLAIM

NOTE: A "claim" for the benefit of an earlier filing date in a foreign country under 35 U.S.C. 119(a)-(d) must be made in a reissue application even though such a claim was made in the application on which the original was granted. However, no additional certified copy of the foreign application is necessary. M.P.E.P., 6th ed., rev. 1, § 1417.

I hereby claim foreign priority benefits under Title 35, United States Code, § 119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed.

(complete C or D)

- C. ☐ No such applications have been filed.
D. ☐ Such applications have been filed as follows:

**EARLIEST FOREIGN APPLICATION(S), IF ANY FILED WITHIN 12 MONTHS
(6 MONTHS FOR DESIGN) PRIOR TO SAID APPLICATION**

Country	Application No.	Date of filing (day, month, year)	Date of issue (day, month, year)	Priority Claimed
				<input type="checkbox"/> YES NO <input type="checkbox"/>
				<input type="checkbox"/> YES NO <input type="checkbox"/>
				<input type="checkbox"/> YES NO <input type="checkbox"/>

**ALL FOREIGN APPLICATION(S), IF ANY FILED MORE THAN 12 MONTHS
(6 MONTHS FOR DESIGN) PRIOR TO SAID APPLICATION**

BENEFIT OF PROVISIONAL APPLICATION

**STATEMENT OF INOPERATIVENESS
OR INVALIDITY OF ORIGINAL PATENT**

(37 C.F.R. § 1.175)

That I believe the original patent to be

☒ partly

☐ wholly

inoperative or invalid by reason of (37 C.F.R. § 1.175(a)(1)):

(check all items that may apply)

☐ a defective specification

☐ a defective drawing

☒ the patentee claiming ~~more or~~ less than the patentee had a right to claim in the patent.

NOTE: At least one error must be relied upon as the basis for the reissue. 37 C.F.R. § 1.175(a)(1).

That the error listed above, which ~~are~~^{is} being corrected, up to the time of the filing of this reissue declaration arose without any deceptive intention on the part of the applicant. (37 C.F.R. § 1.175(a)(2).

NOTE: For any error corrected not covered by this declaration applicant must submit, before allowance, a supplemental declaration stating that every such error arose without any deceptive intention on the part of the applicant. 37 C.F.R. § 1.175(b)(1).

☐ Corroborating affidavits or declarations of others accompany this declaration.

POWER OF ATTORNEY

I hereby appoint the following practitioner(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

PETER G. DILWORTH, Reg. No. 26,450; ROCCO S. BARRESE, Reg. No. 25,253;
DAVID M. CARTER, Reg. No. 30,949; PAUL J. FARRELL, Reg. No. 33,494;
PETER DELUCA, Reg. No. 32,978; JEFFREY S. STEEN, Reg. No. 32,063;
JOSEPH W. SCHMIDT, Reg. No. 36,920; RAYMOND E. FARRELL, Reg. No. 34,816;
ADRIAN T. CALDERONE, Reg. No. 31,746; GEORGE M. KAPLAN, Reg. No. 28,375;
RUSSELL R. KASSNER, Reg. No. 36,183; CHRISTOPHER G. TRAINOR, Reg. No. 39,517;
GEORGE LIKOUREZOS, Reg. No. 40,067; EDWARD C. MEAGHER, Reg. No. 41,189;
MICHAEL P. DILWORTH, Reg. No. 37,311; MICHAEL E. CARMEN, Reg. No. 43,533;
HAROLD G. FURLOW, Reg. No. 43,621; DANIEL E. TIERNEY, Reg. No. 33,461;
MICHAEL J. MUSELLA, Reg. No. 39,310; JUDY NAAMAT, Reg. No. 39,311;
MICHAEL R. BREW, Reg. No. 43,513; and, DWAYNE L. BENTLEY, Reg. No. 45,947;
each of them of DILWORTH & BARRESE, LLP, 333 Earle Ovington Boulevard, Uniondale,
New York 11553; and, DAVID KORIS, Reg. No. 30,908, DOUGLAS E. DENNINGER,
Reg. No. 31,752, PAUL R. AUDET, Reg. No. 26,439; MARK FARBER, Reg. No. 34,159; and,
LAWRENCE CRUZ, Reg. No. 36,385, each of them of UNITED STATES SURGICAL CORPORATION,
150 Glover Avenue, Norwalk, Connecticut 06856

SEND CORRESPONDENCE TO**DIRECT TELEPHONE CALLS TO:**
(Name and telephone number)

Chief Patent Counsel
United States Surgical,
a Division of Tyco Healthcare Group LP
150 Glover Avenue
Norwalk, CT 06856

(203)845-4603

Dated: 6/15/01

By: 

Alan E. Carlton
Assistant Secretary
United States Surgical Corporation

DECLARATION

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Signature(s)

☐ **BY THE INVENTOR(S)**

Full name of sole or first inventor Henry Bolanos

Inventor's signature _____

Date _____ Country of Citizenship USA

Residence 9 Tonetta Circle, East Norwalk, Connecticut 06855

Post Office Address (same)

Full name of second joint inventor, if any Alli Alim

Inventor's signature _____

Date _____ Country of Citizenship USA

Residence 61 Plattsville Avenue, Norwalk, Connecticut 06851

Post Office Address (same)

☒ **BY ASSIGNEE OR PERSON AUTHORIZED TO SIGN ON BEHALF OF ASSIGNEE**

NOTE: Even though inventor(s) do not sign, complete above information for inventor(s).

(complete the following, if applicable)

UNITED STATES SURGICAL CORPORATION

(type name of assignee)

150 Glover Avenue, Norwalk, Connecticut 06856

Address of assignee

Alan R. Carlton

Assistant Secretary

Title of person authorized to sign on behalf of assignee

☒ Assignment recorded in PTO on July 11, 1995

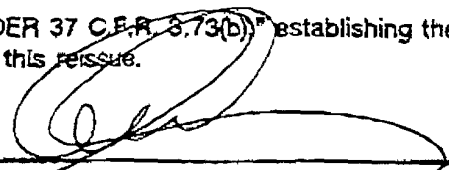
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Frame 0802

☐ A separate ☐ "ASSIGNMENT (DOCUMENT) COVER SHEET"
or ☐ FORM PTO 1595 is submitted herewith along with the assign-
ment _____

STATEMENT BY ASSIGNEE

- ☒ Attached is a "STATEMENT UNDER 37 C.F.R. 3.73(b)" establishing the right of the assignee to take action in this reissue.



Signature of assignee or person authorized to sign on behalf of assignee

(check proper box(es) for any added page(s) forming a part of this declaration)

- ☒ Signature for third and subsequent joint inventors. Number of pages added. 1
- ☐ Signature by administrator(trix), executor(trix) or legal representative for deceased or incapacitated inventor. Number of pages added. _____
- ☐ Signature for inventor who refuses to sign or cannot be reached by person authorized under 37 C.F.R. § 1.47. Number of pages added. _____
- ☒ Statement of inoperativeness or invalidity of original patent. 37 C.F.R. § 1.175. Number of pages added 1
- ☐ Authorization of attorney(s) to accept and follow instructions from representative.
- ☐ Corroborating statements of others.

DECLARATION

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Signature(s)

☐ BY THE INVENTOR(S)

Full name of sole or ~~first~~^{third} inventor Richard C. McClure

Inventor's signature _____

Date _____ Country of Citizenship USA

Residence 676 Fairmount Drive, Claremont, California 91711

Post Office Address (same)

Full name of ~~second~~^{fourth} joint inventor, if any Keith L. Milliman

Inventor's signature _____

Date _____ Country of Citizenship USA

Residence 5 Marywood Road, Bethel, Connecticut 06801

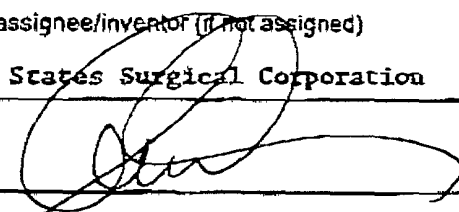
Post Office Address (same)

PTO/SB/93 (02-01)

Approved for use through 01/31/2004, OMB 0851-0033

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REISSUE APPLICATION: CONSENT OF ASSIGNEE; STATEMENT OF NON-ASSIGNMENT		Docket Number (Optional) 203-2058 CON RE (1673 CON RE)
This is part of the application for a reissue patent based on the original patent identified below.		
Name of Patentee(s) Henry Bolanos, et al.		
Patent Number	5,911,353	Date Patent Issued June 15, 1999
Title of Invention DISPOSABLE LOADING UNIT FOR SURGICAL STAPLER		
<p>1. <input checked="" type="checkbox"/> Filed herein is a statement under 37 CFR 3.73(b). (Form PTO/SB/96)</p> <p>2. <input type="checkbox"/> Ownership of the patent is in the inventor(s), and no assignment of the patent is in effect.</p> <p>One of boxes 1 or 2 above must be checked. If multiple assignees, complete this form for each assignee. If box 2 is checked, skip the next entry and go directly to "Name of Assignee". The written consent of all assignees and inventors owning an undivided interest in the original patent is included in this application for reissue.</p>		
The assignee(s) owning an undivided interest in said original patent is/are <u>United States Surgical Corporation</u> and the assignee(s) consents to the accompanying application for reissue.		
Name of assignee/inventor (if not assigned) United States Surgical Corporation		
Signature		Date 6/15/01
Typed or printed name and title of person signing for assignee (if assigned) Allan R. Carlton, Assistant Secretary		

Burden Hour Statement: This form is estimated to take 0.1 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

Practitioner's Docket No. 203-2058 CON RE (1673 CON RE) **PATENT**

REISSUE APPLICATION BY ASSIGNEE, OFFER TO SURRENDER
(37 C.F.R. § 1.178)

To the Assistant Commissioner for Patents:

The undersigned makes this statement as part of the accompanying reissue application for the reissue of letters patent number 5,911,353 for an improvement in DISPOSABLE LOADING UNIT FOR SURGICAL STAPLER

granted on June 15, 1999 to Bolanos et al. and declares that

☐ he ☐ she ☒ it

is now owner by assignment of the entire interest in said original patent and hereby offers to surrender said letters patent.

CERTIFICATION UNDER 37 C.F.R. § 1.10*

(Express Mail label number is mandatory.)

(Express Mail certification is optional.)

I hereby certify that this correspondence and the documents referred to as attached therein are being deposited with the United States Postal Service on this date June 15, 2001 in an envelope as "Express Mail Post Office to Addressee," service under 37 C.F.R. § 1.10, Mailing Label Number EL918828843US addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

Christopher G. Trainor

(type or print name of person mailing paper)

Christopher G. Trainor

(Signature of person mailing paper)

WARNING: Certificate of mailing (first class) or facsimile transmission procedures of 37 C.F.R. § 1.8 cannot be used to obtain a date of mailing or transmission for this correspondence.

WARNING: Each paper or fee filed by "Express Mail" must have the number of the "Express Mail" mailing label placed thereon prior to mailing. 37 C.F.R. § 1.10(b).

"Since the filing of correspondence under § 1.10 without the Express Mail mailing label thereon is an oversight that can be avoided by the exercise of reasonable care, requests for waiver of this requirement will not be granted on petition." Notice of Oct. 24, 1998, 60 Fed. Reg. 56,439, at 56,442.

(Reissue Application by Assignee, Offer to Surrender (37 C.F.R. § 1.178) [17-3]—page 1 of 2)

STATEMENT BY ASSIGNEE

Attached is a "STATEMENT UNDER 37 C.F.R. 3.73(b)," establishing the right of the assignee to take action in this reissue.

Date: 6/15/01

UNITED STATES SURGICAL CORPORATION

(type or print name of assignee)

Alan R. Carlton Assistant Secretary

Signature

(type or print name of signatory and title if signing on behalf of an entity)

NOTE: This form may be used when the inventor is dead. It may also be used, with appropriate changes, when the reissue application does not seek to enlarge the claims of the original patent.